

HOUSE BILL NO. 692

INTRODUCED BY N. BIXBY

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS" AS REQUIRED BY ARTICLE X, SECTION 1(3), OF THE MONTANA CONSTITUTION; IDENTIFYING THE EDUCATIONALLY RELEVANT FACTORS ON WHICH THE BASIC SYSTEM IS ESTABLISHED; INCORPORATING "INDIAN EDUCATION FOR ALL" INTO THE DEFINITION; AMENDING SECTION 20-9-307, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, Article X, section 1(1), of the Montana Constitution states, "It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state"; and

WHEREAS, Article X, section 1(2), of the Montana Constitution states, "The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity"; and

WHEREAS, the framers of the Montana Constitution intended that Article X, section 1(2), be connected to the educational goals in section 1(1) when Delegate Harbaugh stated, "It would seem to me to be appropriate to use the word "goals" and to relate back to the goals which are mentioned--the broad goals for education--in subsection 1"; and

WHEREAS, in 1989, the Montana Supreme Court held in *Helena School District v. State*, 236 Mont. 44, 769 P.2d 684 (1989), that Article X, section 1(2), "establishes a special burden in Montana for the education of American Indian children which must be addressed as a part of the school funding issues"; and

WHEREAS, 15 years later in *Columbia Falls Elementary School District No. 6, et al. v. State*, Cause No. 04-390 (2004), the District Court found that, despite the admonition by the Montana Supreme Court in *Helena School District*, "it would appear that nothing has been done to effectuate subsection (2) of Article X, Section 1, of the Montana Constitution". The Court noted, "To have any meaning or effect, the Indian Education for All Act requires resources and programs, which, in turn, require funding. Despite this, the legislature has provided no funding." The Court continued, "In reality, the State appears to be defenseless on Plaintiff's claim that Article X, Section 1(2) of the Montana Constitution has not been implemented by the State despite the constitution's

1 direction to do so"; and

2 WHEREAS, the Montana Supreme Court in its preliminary order of November 9, 2004, affirming the
3 District Court's decision in Columbia Falls Elementary, stated, "We affirm the District Court's conclusion that the
4 current funding system violates Article X, Section 1(2), of the Montana Constitution in that the State has failed
5 to recognize the distinct and unique cultural heritage of American Indians and has shown no commitment in its
6 education goals to the preservation of Indian Cultural identity"; and

7 WHEREAS, there was legislation passed in 1999 (House Bill No. 528) that expressed the legislative
8 intent of the Montana Constitution's promise in Article X, section 1(2), but there was no funding provided for the
9 implementation of House Bill No. 528 nor have subsequent Legislatures provided funding for implementation;
10 and

11 WHEREAS, the K-12 Public School Renewal Commission in September of 2004 outlined specific
12 recommendations to the Education and Local Government Interim Committee, which endorsed the
13 recommendations and urged individual legislators to carry the recommendations to the 2005 Legislature,
14 including the recommendations to fully implement Indian Education for All.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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18 **Section 1.** Section 20-9-307, MCA, is amended to read:

19 **"20-9-307. Basic system of free quality public elementary and secondary schools defined --**
20 **identifying educationally relevant factors -- BASE funding program -- district general fund budget --**
21 **funding sources.** (1) A Pursuant to Article X, section 1(3), of the Montana constitution, the legislature is required
22 to establish and maintain a basic system of free quality public elementary and secondary schools and high
23 schools must be established and maintained throughout the state of Montana to provide equality of educational
24 opportunity to all school-age children.

25 (2) As used in this section, "basic system of free quality public elementary and secondary schools"
26 means:

27 (a) the basic educational program specified by the accreditation standards pursuant to 20-7-111;

28 (b) implementation of Indian education for all authorized in Article X, section 1(2), of the Montana
29 constitution and Title 20, chapter 1, part 5, including but not limited to:

30 (i) curriculum development and supportive instructional resources;

- 1 (ii) culturally appropriate instruction about American Indians, especially Montana Indians, for all students;
2 and
3 (iii) integration of culturally appropriate American Indian lessons into all curricular areas in kindergarten
4 through 12th grade;
5 (c) implementation of educational programs for special needs students, including students with
6 disabilities, at-risk students, and gifted and talented students;
7 (d) salaries and mandated employee benefits, including health insurance and retirement benefits, for
8 district-certified and district-classified employees required to implement the programs identified in subsections
9 (2)(a) through (2)(c);
10 (e) resources and equipment necessary to provide the programs identified in subsections (2)(a) through
11 (2)(c) in a classroom or at an offsite instructional setting. Resources and equipment may include but are not
12 limited to:
13 (i) textbooks, library materials, and other instructional materials, including materials specifically related
14 to the preservation of American Indian history and culture;
15 (ii) specialized materials and delivery systems for students with special needs; and
16 (iii) distance, online, and technology-delivered learning programs.
17 (f) inservice training and staff development required to implement the programs identified in subsections
18 (2)(a) through (2)(c) in a classroom setting or at an offsite instructional setting, especially training and
19 development with an emphasis on Montana Indian history and culture as well as contemporary issues and
20 learning styles of American Indian students that assist teachers in understanding American Indians and to be
21 better prepared to teach all students in Montana in fulfilling Article X, section 1(2), of the Montana constitution;
22 (g) capital outlay, including funds necessary for the maintenance, improvement, equipping, renovating,
23 or major repair of a school building or facility;
24 (h) transportation of students pursuant to Title 20, chapter 10; and
25 (i) a procedure to assess and track student achievement within the basic system of free quality public
26 elementary and secondary schools, including the adoption of assessment standards that incorporate
27 measurements that are tied to the goals of Indian education for all.
28 (3) The educationally relevant factors on which funding of the basic system of free quality public
29 elementary and secondary schools may be adjusted include:
30 (a) addressing the needs of schools or districts with low population density;

1 (b) addressing the needs of at-risk students, including students within a district who are eligible for
2 participation in the free or reduced-price lunch program pursuant to 42 U.S.C. 1751, et seq., or students who
3 are eligible to participate in programs serving students with limited English proficiency;

4 (c) addressing the needs of American Indian students with regard to equity in educational achievement;

5 (d) the use of research to ensure best educational practices for promoting student achievement;

6 (e) the ability to recruit and retain qualified teachers in areas of the state experiencing problems in
7 recruiting and retaining qualified teachers; and

8 (f) the preservation of local control of school districts pursuant to Article X, section 8, of the Montana
9 constitution.

10 ~~(2)~~(4) The state shall assess the costs of the basic system of free quality public elementary and
11 secondary schools and shall, in an equitable manner and based on the educationally relevant factors identified
12 in subsections (2) and (3), including factors pertinent to Article X, section 1(2), of the Montana constitution, fund
13 and distribute to the school districts the state's share of the cost of the basic school system of free quality public
14 elementary and secondary schools through BASE aid to support the BASE funding program, state support for
15 reimbursement of transportation and school facilities, and state support for school employee retirement in the
16 manner established in this title.

17 ~~(3)~~(5) The budgetary vehicle for achieving the financing system established in subsection ~~(2)~~ (4) is the
18 general fund budget of the school district. The purpose of the district general fund budget is to finance ~~these~~
19 ~~instructional, administrative, facility maintenance, and other operational~~ the costs of the basic system of free
20 quality public elementary and secondary schools, including annual inflation-related adjustments provided for in
21 20-9-326, of a district not financed by other funds established for special purposes in this title.

22 ~~(4)~~(6) The BASE funding program for the districts in the state is financed by a combination of the
23 following sources:

24 (a) county equalization money, as provided in 20-9-331 and 20-9-333;

25 (b) state equalization aid, as provided in 20-9-343, including guaranteed tax base aid for eligible districts
26 as provided in 20-9-366 through 20-9-369;

27 (c) appropriations for special education;

28 (d) a district levy, as provided in 20-9-303, for support of a school not approved as an isolated school
29 under the provisions of 20-9-302; and

30 (e) district levies or other revenue, as provided by 20-9-308 and 20-9-353."

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2 NEW SECTION. **Section 2. Notification to tribal governments.** The secretary of state shall send a

3 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell

4 band of Chippewa.

6 NEW SECTION. **Section 3. Effective date -- applicability.** [This act] is effective July 1, 2005, and
7 applies to the school fiscal years beginning on or after July 1, 2006.

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